S.I. 87/2014

VALUE ADDED TAX REGULATIONS

(SECTION 96)

[Commencement 1st January, 2015]

PART I - PRELIMINARY

Citation.

1. These Regulations may be cited as the Value Added Tax Regulations.

Interpretation.

2. (1) In these Regulations, unless the context otherwise requires —

Ch. 370A.

"Act" means the Value Added Tax Act;

"ancillary transport services" means —

(a) stevedoring services;

(b) lashing and securing services;

(c) cargo inspection services;

(d) preparation of customs documentation;

(e) container handling services;

(f) storage of transported goods or goods to be transported;

"capital goods" means an asset, or a component of an asset which is —

(a) of a character subject to an allowance for depreciation, or comparable deduction, for purposes of financial accounting; and

(b) used in the course or furtherance of a taxable activity;

"commercial rental establishment" has the meaning set out in regulation 10;

"domestic financial services" means financial services supplied within The Bahamas to a person who is not treated as a non-resident for purposes of the Exchange Control Regulations[5].

"dwelling" means a building, premises, structure, or other place, or any part thereof, used or intended for use predominantly as a place of residence or abode of a natural person together with any appurtenances belonging thereto or enjoyed therewith, excluding a commercial rental establishment;

[5] Sub. Leg: Vol VI, Ch. 360

"education services" means tuition or instruction for students provided by an institution registered with the Ministry of Education, the Department of Social Services, or the Public Hospitals Authority being —

(a) a pre-primary, primary, or secondary school;

(b) a technical college, community college, or university;

(c) an educational institution established for the promotion of adult education, vocational training, or technical education;

(d) an institution established for the education or training of physically or mentally handicapped persons;

(e) an institution established for the training of sports persons;

"Excise Act" means the Excise Act; Ch. 293A.

"export country" means any country or place outside The Bahamas, excluding a country or place designated by the Minister by order not to be an export country;

"exported from The Bahamas" means, in relation to a supply of movable goods by a registrant under a sale or credit agreement, goods —

(a) consigned or delivered by the registrant supplier to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner or delivered by the registrant to the owner or charterer of an exporting ship or aircraft for use or consumption in such ship or aircraft;

(b) which immediately before being put on board the exporting ship or aircraft are produced to the Comptroller of Customs for examination;

(c) in respect of which, on request by the Comptroller of Customs, such samples as the Comptroller may require for testing or any other purpose are made available;

(d) in relation to which the master or commander of the exporting ship or aircraft, or such other person as the master or

commander may authorise, certifies on the document on which such goods are entered that they have been received on board the exporting ship or aircraft;

(e) in respect of which the particulars are included in the cargo manifest of the exporting ship or aircraft;

(f) which have not been, nor will be, re-imported into The Bahamas by the registrant supplier;

"fair market value" has the meaning ascribed in regulation 3;

"financial services" includes —

(a) granting, negotiating, and dealing with loans, credit, credit guarantees, or any security for money, including the management by the grantor of loans, credit and credit guarantees;

(b) transactions concerning money, deposit and current accounts, payments, transfers, debts, cheques, or negotiable instruments, excluding debt collection and factoring;

(c) transactions relating to financial derivatives, forward contracts, options, and similar arrangements;

(d) transactions relating to shares, stocks, bonds, and other securities, excluding custody services;

(e) management of investment funds;

(f) medical and life insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents in connection with medical and life insurance and reinsurance transactions;

(g) other services provided by a financial service provider within the scope of its business;

"financial services provider" means a person who provides financial services in the course or as part of a taxable activity carried on by such person;

"hotel" means a hotel, motel, inn, boarding house, guest house, hostel, or similar establishment in which lodging is regularly or normally provided—

(a) to five or more persons;

(b) at a daily, weekly, monthly, or other periodic charge;

"intellectual property rights" means a patent, design, trademark, copyright, know-how, confidential information, trade secret, or similar right;

"international financial services" means financial services supplied within The Bahamas to a person treated as a non-resident for purposes of the Exchange Control Regulations[6];

"international transport services" means services, including ancillary transport services, comprising —

(a) the transport of passengers by road, water, or air —

(i) from a place outside The Bahamas to another place outside The Bahamas where the transport, or part of the transport, is across the territory of The Bahamas;

(ii) from a place outside The Bahamas to a place within The Bahamas;

(iii) from a place within The Bahamas to a place outside The Bahamas;

(b) the transport of goods by road, water, or air —

(i) from a place outside The Bahamas to another place outside The Bahamas where the transport, or part of the transport, is across the territory of The Bahamas;

(ii) as part of a single voyage, directly from a place within The Bahamas to a place outside The Bahamas;

"registrant dealer" means a registrant who carries on a taxable activity consisting, in whole or in part, of the supply or import of secondhand vehicles;

[6] Sub. Leg:, Vol VI, Ch. 360

"residential accommodation" includes accommodation in a condo, house, flat, apartment, timeshare, room, caravan, houseboat, tent, or caravan or camping site;

Ch. 295. "Tariff Act" means the Tariff Act;

"zero rated" means chargeable to tax at a zero percent rate of the value of the supply or import;

(2) Words and phrases not defined in paragraph (1) and used in these Regulations, unless the context otherwise requires, have the same meaning ascribed to them in the Act.

Determination of fair market value and cash value.

3. (1) A supply made for consideration includes a supply —

(a) where the supplier directly or indirectly receives a payment for the supply from the recipient or any other person, including a payment wholly or partly in money or kind;

(b) made between related persons for no consideration;

(c) of goods for use only as trade samples;

(d) made through the application to a different use of goods or services acquired for use in a taxable activity; and

(e) made on the disposition of a taxable activity as a going concern to the extent the recipient acquires the goods or services for a purpose unrelated to the making of taxable supplies and such purpose relates to more than ten percent of the total taxable activity acquired by the recipient.

(2) For the purposes of the Act, these Regulations and VAT Rules, the fair market value of a supply or import of goods or services at a given date is —

(a) the consideration in money which the supply or import, being a supply or import freely offered and made between persons who are not related persons, would generally fetch if supplied or imported in similar circumstances at such date in The Bahamas;

(b) where the fair market value cannot be determined under sub-paragraph (a), the consideration in money which a similar

supply or similar import, being a supply or import freely offered and made between persons who are not related persons, would generally fetch if supplied or imported in similar circumstances at such date in The Bahamas;

(c) where the fair market value cannot be determined under sub-paragraphs (a) or (b), determined in accordance with a method approved by the Comptroller which provides a sufficiently objective approximation of the consideration in money which could be obtained for such supply or import had the supply or import been freely offered and made between persons who are not related persons; and

(d) determined in accordance with the Act at the time of the supply or import.

(3) For purposes of paragraph (2) —

(a) a similar import, in relation to an import of goods or services, means goods or services produced in the same country which, although not alike in all respects, have the characteristics and like component materials which enables them to perform the same functions and to be commercially interchangeable; and

(b) a similar supply, in relation to a supply of goods or services, means any other supply of goods or services which, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the first-mentioned goods or services, is the same as, or closely or substantially resembles, that first-mentioned supply of goods or services.

(4) For the purposes of the Act, these Regulations and VAT Rules, the cash value in relation to a supply of goods under a credit agreement is —

(a) where the seller or lessor is a bank or other financial institution, an amount equal to the sum of —

(i) the consideration paid by the bank or institution for the goods or the fair

market value of the supply of the goods to the bank or institution, whichever is the greater;

(ii) any consideration borne by the bank or institution for the erection, construction, assembly, or installation of the goods;

(b) where the seller or lessor is a dealer, an amount equal to the sum of —

(i) the consideration at which the goods are normally sold by the dealer for cash; and

(ii) any consideration borne by the dealer for the erection, construction, assembly, or installation of the goods.

Taxable activity.

4. (1) A ministry, department, statutory body, agency, local government council, or other entity of Government carries on a taxable activity when it —

(a) conducts auctions;

(b) hires equipment;

(c) rents space; or

(d) engages in any activity commonly conducted for profit.

(2) The issuance of licences by an entity of Government referred to in paragraph (1) is not a taxable activity.

(3) Anything done in connection with the commencement or termination of a taxable activity is treated as carried out in the course or furtherance of that taxable activity.

(4) Subject to these Regulations, an isolated supply of property used as a dwelling made by a person independent of any other taxable activity is not treated as a taxable activity.

(5) A supply of a condo that is part of a hotel complex, including a condo that is part of a rental pool, is made in the course or furtherance of a taxable activity regardless of the value of the taxable supplies associated with such condo within any period of ninety days.

Criteria for approval as a charitable organisation.

5. (1) The Minister may, in the Minister's discretion, pursuant to section 58 of the Act approve as a

charitable organisation a society, association, or other organisation that —

(a) is carried on for purposes other than profit or gain to a proprietor, member or shareholder of such organisation;

(b) under its memorandum, articles of association, written rules, or other document constituting or governing its activities is —

(i) required to utilise any assets or income solely in furtherance of its aims and objects;

(ii) prohibited from transferring any part of its assets or income directly or indirectly so as to profit a person other than by way of the —

(A) provision of charitable assistance;

(B) payment in good faith of reasonable remuneration to an officer or employee for services rendered to such organisation; and

(iii) on its winding-up or liquidation, required to give or transfer to another society, association, or other organisation, having similar objects its assets remaining after the satisfaction of its liabilities.

(2) An organisation approved by the Minister pursuant to subsection (1) must —

(a) be organised exclusively to carry out, and in fact carry out, relief of poverty or educational, charitable, social welfare, civic improvement, or other similar activities, in the public interest;

(b) not involve itself in partisan political activities;

(c) not receive more than fifty percent of its funds from one person or organisation, or from a group or organisation that does not deal with each other at arm's length;

(d) disburse annually more than fifty percent of contributions received towards the attainment of activities referred to in paragraph (a);

(e) not make its annual disbursement quota referred to in paragraph (d) by the exchange of gifts between other approved charities, persons, organisations or other legal persons;

(f) be in compliance with any laws in The Bahamas governing charities; and

(g) be resident in The Bahamas during the tax year.

Criteria for determining a finance lease.

6. For the purposes of the Act, these regulations and VAT Rules, a finance lease in relation to goods is a lease —

(a) having a term which exceeds seventy-five percent of the expected life of the goods;

(b) which provides for transfer of ownership at the expiration of the lease term or grants the lessee an option to purchase the goods for a fixed or determinable price at the expiration of the lease term;

(c) where the estimated residual value of the goods to the lessor at the expiration of the lease term, including the period of any option to renew, is less than twenty percent of the fair market value of the goods at the commencement of the lease term; or

(d) where the goods are custom-made for the lessee and, at the expiration of the lease term, will not be usable by anyone other than the lessee.

Determination of related persons.

7. (1) For the purposes of the Act, these Regulations and VAT Rules, a person A is related to a person B, and vice versa, where —

(a) A is a natural person and B is a relative of A;

(b) A is a trust and B is a person who is or may be a beneficiary in respect of A or whose relative is or may be a beneficiary;

(c) A is a partnership or company limited by shares and B is a member of such partnership or company and B, together with other persons who are related persons under this section, owns by way of shares or other membership interests twenty-five percent or

more of the rights to income or capital of such partnership or company;

(d) A is a shareholder and B is a company limited by shares and A, together with other persons who are related to A under this section —

(i) controls by way of shares twenty-five percent or more of the voting power in B;

(ii) owns twenty-five percent or more of the rights to dividends or of the rights to capital;

(e) A is a company and B is a company and a third person C, either alone or together with persons who are under this section related to C —

(i) controls twenty-five percent or more of the voting power in A and B;

(ii) owns twenty-five percent or more of the rights to dividends or of the rights to capital in A and B;

(f) A is a non-resident branch or home office of a company operating in The Bahamas and B is a resident branch or home office of the same company in the Bahamas.

(2) For the purposes of sub-paragraphs (c), (d) and (e) of paragraph (1), a person owns, on a pro rata basis, shares or other membership interests where such shares or interests are owned and controlled by such person indirectly through one or more interposed persons.

(3) For the purposes of this regulation —

(a) a relative B in relation to a natural person A is —

(i) the spouse or child of A;

(ii) an ancestor of A or lineal descendant of A's grandparent, stepfather, step-mother, or stepchild;

(iii) the spouse of a person referred to in sub-sub-paragraph (ii); and

(b) an adopted child is treated as a natural child of the adopter.

Determination of exempt medical services.

8. (1) In accordance with the Act, these Regulations and VAT Rules —

(a) a medical service is a service —

(i) which is a medical, dental, nursing, convalescent, rehabilitation, midwifery, paramedical, or other similar service;

(ii) performed by, or under the supervision and control of, a person who is licensed in accordance with the Medical Act, or the Dental Act and in possession of a valid business licence to provide such services in accordance with the Business Licence Act;

Ch. 224.
Ch. 226.
Ch. 329.

(iii) which is not cosmetic in nature; and

(b) a medical service is an exempt service under paragraph (3) of Part I of the Second Schedule to the Act only when supplied by a public health care facility to a public patient.

Second Schedule.

(2) A public health care facility is a hospital or clinic operated by —

(a) the Public Hospitals Authority established under section 3 of the Public Hospitals Authority Act; or

Ch. 234.

(b) the Ministry of Health or a department within the Ministry of Health.

(3) A public patient is a person who receives services free of charge at a public health care facility who is —

(a) indigent;

(b) a child under the age of eighteen years;

(c) a person of sixty-five years of age or older;

(d) a Bahamas Government employee; or

(e) entitled to receive such services free of charge under special criteria established by the Ministry of Health.

Determination of exempt education services.
Second Schedule.

9. (1) For the purposes of paragraph (4) of Part I of the Second Schedule to the Act —

(a) education services which are funded by the cost of tuition are limited to —

(i) course instruction;

(ii) books;

(iii) other materials explicitly included by the institution in the cost of tuition;

(b) a course of study means enrolment in —

(i) a preschool, primary or secondary school;

(ii) a tertiary level programme of study at an institution of higher learning which would, upon successful completion, result in the grant of a degree.

(2) Paragraph (4) of Part I of the Second Schedule to the Act does not apply to — Second Schedule.

(a) tuition costs for professional or personal development courses, continuing education courses and seminars, or tutoring services; and

(b) fees and charges billed separately by an institution for books and course materials, use of and access to facilities, or other services and amenities.

10. (1) For the purposes of the Act, these Regulations and VAT Rules, a commercial rental establishment includes — Commercial rental establishment.

(a) accommodation in a hotel;

(b) residential accommodation of any kind which constitutes an asset, including a leased asset, of a business undertaking or a separately identifiable part of a business undertaking carried on by any person who —

(i) leases or holds for lease in the course of such business undertaking the accommodation as residential accommodation; and

(ii) in respect of each occupant, regularly or normally leases or holds for lease the accommodation as residential accommodation for continuous periods not exceeding forty-five calendar days;

(c) residential accommodation in a condo, timeshare, or house, acquired by a non-resident under the International Persons Landholding Act where the permit specifies Ch. 140.

that such accommodation will be used for rental purposes;

(d) residential accommodation in a condo, timeshare, or house which —

(i) is not part of a hotel or resort complex;

(ii) is acquired by a non-resident under the International Persons Landholding Act Ch. 140. whose permit specifies that such accommodation will be used for rental purposes;

(e) residential accommodation in a condo, house, flat, apartment, or room, other than accommodation referred to in sub-paragraphs (a), (b), (c) or (d), which is —

(i) in respect of each occupant of such condo, house, flat, apartment, or room, regularly or systematically leased or held for lease as residential accommodation for continuous periods not exceeding forty-five calendar days;

(ii) leased with furnishings and utilities provided by the lessor; or

(f) any other accommodation which the Minister may, by order, designate as a commercial rental establishment.

(2) A commercial rental establishment pursuant to paragraph (1), unless designated by the Minister pursuant to sub-paragraph (f), does not include accommodation in a —

(a) boarding establishment or hostel operated by —

(i) an employer not for the profit of any person but, solely or predominantly, for the benefit of—

(A) the employees of such employer;

(B) a related person of such employer;

(C) the dependants of a person referred to in (A) or (B);

(ii) a local government council not for the profit of any person; or

(b) registered hospital, maternity home, nursing home, convalescent home, or clinic.

(3) Subject to regulation 11, the operation of a commercial rental establishment is a taxable activity comprising a taxable supply of services and, where the operation satisfies the registration threshold, the owner of such establishment becomes a taxable person required to register as such under the Act.

(4) The conversion by the owner of a commercial rental establishment to a dwelling —

(a) is a taxable supply; and

(b) may in the discretion of the Comptroller be treated as an exempt supply where a taxable person owning such establishment submits to the Value Added Tax Department, prior to the conversion, a written declaration in Form No. 1 of the intent to convert such establishment to a dwelling.

(5) A commercial rental establishment in respect of which the owner fails to submit to the Value Added Tax Department, prior to a conversion, a written declaration of the intent to convert such establishment to a dwelling, continues to be a commercial rental establishment for VAT purposes.

Condos leased collectively.

11. (1) Pursuant to section 5 of the Act, the leasing of condos or other residential accommodations that are part of a pool or other collective rental agreement is a taxable activity comprising a taxable supply of services and, where such activity satisfies the registration threshold, the administrator of such accommodations must register as a taxable person under section 19 of the Act.

(2) The payment of VAT by an administrator pursuant to paragraph (1) on the supply of an accommodation in the pool relieves the owner of the accommodation of the liability for VAT on the taxable supplies associated with such accommodation.

(3) The owner of an accommodation under this regulation —

(a) is liable, where the administrator fails to pay VAT on the supply of such accommodation, for VAT on taxable supplies associated with the accommodation; and

(b) must pay any VAT payable by the due date for payment.

(4) For the purposes of this regulation, the administrator is the hotel or other person responsible, in accordance with a collective rental agreement, for the collective administration of condos or other residential accommodations forming part of a pool.

Returnable container.

12. (1) For the purposes of the Act, a returnable container is a container that is supplied on payment of a deposit under an arrangement whereby the container, where in a suitable condition, is returnable for a refund or credit of the deposit.

(2) A returnable container pursuant to paragraph (1) includes —

(a) heavy-duty containers for industrial application;
(b) oil drums;
(c) gas or oxygen cylinders;
(d) pallet containers;
(e) shipping and protective storage bins;
(f) such other containers as may be approved by the Comptroller.

Exchange of information.

13. (1) The Value Added Tax Department may, in order to facilitate the efficient management of taxes and taxpayer compliance, enter into a memorandum of understanding with other Government entities to govern in accordance with subsection (4) of section 95 of the Act the type of information which may be exchanged, the circumstances in which such information may be exchanged, and the use to which it may be put.

(2) Notwithstanding paragraph (1), the Value Added Tax Department may without entering into a memorandum of understanding exchange information with the Customs Department on a registrant's VAT identification number.

VAT Forms.

Second Schedule.

14. (1) A certificate of registration issued by the Comptroller pursuant to section 23 of the Act must be in the form set out in the Second Schedule.

(2) A reference made in these Regulations to a form, other than a certificate of registration, is a reference to such form as prescribed by the Comptroller in VAT Rules.

PART II - APPLICATION OF RATES OF TAX AND CASH BASIS ACCOUNTING

Zero rated supplies.

15. (1) An exporter must, in order to obtain zero rating for the export of goods and related services, identify the goods at the port of exit and present such documentary proof as may be required by the Comptroller of Customs.

First Schedule.

(2) The professional services specified in section 9 of Part II of the First Schedule to the Act are zero-rated only where the supplier provides documentary proof, acceptable to the Comptroller of VAT, that the services are used or the benefit or advantage is obtained outside The Bahamas.

(3) Subject to VAT rules, the VAT Comptroller may allow a registrant to make taxable supplies of goods to a retail recipient inside The Bahamas at a zero rate where the VAT Comptroller obtains documentary evidence that the recipient will export the goods from The Bahamas.

(4) The VAT Comptroller shall, for the purposes of determining liability for output VAT, treat the supply of international transport services as zero-rated.

First Schedule.

(5) Pursuant to Part II, paragraph 11 of the First Schedule to the Act and subject to VAT rules, the Comptroller shall allow services provided to persons treated as non-resident for the purposes of Exchange Control to be zero-rated only where —

(a) the benefit or use of the service is considered to be outside The Bahamas; or

(b) the non-resident recipient of the service makes taxable supplies from inside The Bahamas for benefit or use outside The Bahamas.

Supply of taxable activity as a going concern.

16. For the purposes of a transfer of a business as a going concern under the Act —

(a) a going concern is not a dormant or prospective business but an income-producing activity capable of separate operation that is in fact operational and capable of being carried on without interruption after the transfer;

(b) a transfer qualifies as a transfer of a going concern where it constitutes the entire taxable activity of the supplier that is a going concern; or a portion of such taxable

activity where capable of being carried on as a going concern;

(c) a supply can constitute a transfer of a going concern even where the transferred business is not profitable, or is being transferred to a liquidator, receiver, trustee in bankruptcy, or other person appointed upon the insolvency of a registrant;

(d) the supply is zero-rated only where the transfer takes place on or after the date the Act comes into force;

(e) a supply of a going concern is zero-rated within Part I of the First Schedule to the Act even where the supply is to a person with no previous interest in the business;

First Schedule.

(f) zero-rating applies to a supply of an existing business that involves only a change of legal status or form of doing business, such as from a partnership to an incorporated company;

(g) it is not necessary for the transferee to operate the particular income-producing activity acquired, so long as the activity is capable of separate operation;

(h) the supply of a vacant factory building held as an investment does not qualify for zero-rating as the supply of a going concern;

(i) the transfer of machinery and a factory building that have been used to manufacture shipping boxes qualifies as a supply of a going concern;

(j) the supply is not zero-rated unless a notice in writing in the prescribed form signed by both the transferor and transferee is filed with the Comptroller fourteen calendar days prior to the date the sale, transfer or acquisition of legal interest takes place and contains the details of the supply;

(k) the fourteen calendar day period referred to in sub-paragraph (j) within which the notice must be filed is determined in accordance with the provisions of section 31 of the Act;

(l) the Comptroller may require additional information from the transferor or

transferee, or both; or may waive the requirement to value individual assets of nominal value;

(m) where the transferor cancels its registration as a result of a zero-rated transfer of a going concern —

(i) the transferor must comply with section 26 of the Act;

(ii) in accordance with section 31(8) of the Act, the goods which are not transferred as part of the going concern constitute a supply of the goods by the transferor at the value prescribed in regulation 3; and

(n) sub-paragraph (m) does not apply to goods and intellectual property in respect of which the transferor has not been allowed an input tax deduction under the Act and these Regulations.

Supplies by hotel and similar establishment.

17. (1) A supply by a hotel or similar establishment is chargeable to VAT at the standard rate of seven and one half percent of its value where the hotel or similar establishment is registered and licensed by the Hotel Licensing Authority and the supply is of —

(a) accommodations;

(b) services included in the room rate for accommodations; or

(c) food and beverages rendered within the hotel or similar establishment.

(2) A similar establishment pursuant to paragraph (1) includes a facility —

(a) provided by a supplier for sleeping accommodation for individuals for overnight or short-term stays of less than a month; and

(b) comprising an apartment or room not located in a private home leased for a month or more where the lessor provides utilities or furnishings for the term of the lease.

(3) For the purposes of paragraph (2), a private home referred to in sub-paragraph (b) is the residence of the lessor where the home is a single family dwelling.

(4) In this regulation, the value of a supply of accommodation includes all —

(a) charges imposed for the accommodation;

(b) non-discretionary amounts added to the accommodation rate, including mandatory service charges and resort levy.

(5) Subject to VAT rules, a gratuity charged as part of the price for the supply of a service provided in hotels and restaurants shall be excluded from the value of the taxable supply where —

(a) the gratuity is calculated on the price of the supply exclusive of VAT; and

(b) the amounts collected are paid in full to eligible employees in accordance with VAT rules.

(6) Subject to VAT Rules, a gratuity is a payment provided for the supply of a service that is explicitly intended for the servers or employees delivering the service.

Exempt financial services. Second Schedule.

18. (1) Pursuant to Part I of the Second Schedule to the Act and subject to this regulation, exempt financial services are —

(a) the insurances services described in paragraph (1); or

(b) domestic supplies of financial services which are rendered without an explicit fee, commission, or similar charge, other than discounting cost.

(2) An exemption from a charge of VAT applies to domestic financial intermediation services where such services are rendered for an implicit fee provided —

(a) a supplier who makes a taxable supply of goods on credit does not include the finance charges in the total amount payable by the buyer in instalments;

(b) the supplier under sub-paragraph (a) lists the finance charges separately from the consideration for the goods; and

(c) the services are otherwise in accordance with the requirements of this regulation.

(3) A taxable person, such as a credit department of a retail shop, may render exempt financial intermediation

services referred to in paragraph (2) even where it is not a registered or licensed bank or financial services provider.

(4) A domestic financial service is not exempt from a charge of VAT, even when rendered without an explicit or implicit fee or other similar charge, and whether or not supplied by or to a financial service provider in connection with an exempt financial service, where such service consists of —

(a) legal, accounting, record packaging services, and tax agency services, including advisory services;

(b) safe custody for money or documents;

(c) brokerage services;

(d) debt collection or factoring services; and

(e) trustee services.

(5) For purposes of paragraph (4) —

(a) the accounting and record packaging services referred to in sub-paragraph (a) are services which may be provided to a financial institution rendering exempt financial services and include —

(i) services related to a financial clearing system that may be part of the settlement process;

(ii) the posting of financial transactions to or the maintenance of the accounts of the financial institution's customers;

(iii) the rendering of services ancillary to the services under sub-sub-paragraphs (i) and (ii);

(b) in relation to the factoring services referred to in sub-paragraph (d) —

(i) the mere acquisition of a debt is not a taxable transaction, including debt acquired by a factor; and

(ii) the services related to debt recovery, litigation, and the management of the recovery of the amount due from debtors are taxable, including sales accounting services under a factoring arrangement and other services related to factoring.

(6) For the avoidance of doubt, domestic financial services which are not exempt from a charge of VAT where a bank or financial services provider charges an explicit fee include —

(a) the transmission of money or monetary value in any form;

(b) the issuance, sale or redemption of money orders or traveller's cheques;

(c) cheque cashing;

(d) currency exchange issuance, sale or redemption of money orders or traveller's cheques; and

(e) currency exchange and pay day advances.

(7) Where stamp tax is payable on a financial transaction, the value of the transaction subject to VAT is limited to the sum of the explicit fees charged on such transaction.

(8) A supply of domestic financial services that is exempt from a charge of VAT is, when supplied directly in connection with the international transport of goods, treated as a zero-rated export of financial services.

(9) In this regulation —

"cheque" includes a postal order, money order, cheque, or any other order or authorisation, whether in writing, by electronic means, or otherwise, to a financial institution to credit or debit an account;

"currency" means a banknote or other currency of any country, other than when used as a collector's piece, investment article, item of numismatic interest, or otherwise than as a medium of exchange;

"discounting cost" means the amount a person is charged in the nature of interest when obtaining financing using as security its invoices or receivables but excludes any service fee the lender or discounter charges to administer the finance facility.

Cash basis accounting for VAT returns.

19. (1) The Comptroller may, upon receipt of an application in writing by a registrant, approve in writing the use by such registrant of a cash basis of accounting for VAT returns.

(2) A registrant must, where the Comptroller approves a cash basis of accounting for VAT returns, account for VAT on the basis of payments made or received for taxable supplies during the relevant tax period by calculating —

(a) the amount of VAT payable as a fraction of the total sales made during the tax period using rates established by the Comptroller; or

(b) input VAT and output VAT at the standard rate.

(3) The Comptroller may specify in VAT Rules —

(a) conditions which apply in relation to use by a registrant of a cash basis of accounting; and

(b) special circumstances under which the Comptroller may allow a claim for input tax deduction notwithstanding that a registrant uses the cash basis of accounting referred to in sub-paragraph (a) of paragraph (2).

(4) The Comptroller must, where approving the use by a registrant of a cash basis of accounting, state in the approval the period of time during which the registrant may use such cash basis of accounting.

PART III - RETURNING NATIONALS

Exempt imports by nationals returning home. Second Schedule.

20. (1) A national who is returning home for permanent residence may apply for an exemption from a charge of VAT under Part II of the Second Schedule to the Act where such national —

(a) has a valid passport or other official document establishing his nationality as a citizen or permanent resident of The Bahamas;

(b) has documents acceptable to the Comptroller of VAT and the Comptroller of Customs which evidence such person's —

(i) residential status outside The Bahamas for at least the previous ten years;

(ii) intention to re-establish permanent residence in The Bahamas; and

(c) satisfies the requirements of paragraph (6).

(2) Documents acceptable to the Comptroller of VAT and the Comptroller of Customs pursuant to sub-sub-paragraph (i) of sub-paragraph (b) include —

(a) entries in a foreign passport;

(b) an alien resident card; or

(c) a work permit accompanied by a letter from an employer abroad.

(3) Documents acceptable to the Comptroller of VAT and the Comptroller of Customs pursuant to sub-sub-paragraph (ii) of sub-paragraph (b) include proof of —

(a) retirement;

(b) ownership of a dwelling home or land in The Bahamas; or

(c) a planned investment in The Bahamas.

(4) An exemption under paragraph (1) applies and is limited to the —

(a) returning national and his family members who are also returning nationals; and

(b) family members who are the husband, wife, or children under eighteen years of age, of the returning national.

(5) A returning national must, in order to qualify for an exemption under paragraph (1) —

(a) be at least eighteen years of age;

(b) have been a resident outside The Bahamas continuously for at least ten years immediately prior to his return;

(c) be returning permanently to The Bahamas;

(d) retain ownership and use of the goods exempted from VAT for his personal use; and

(e) not previously have received an exemption from VAT under section 5 of Part II of the Second Schedule to the Act.

Second Schedule.

(6) A returning national who applies for an exemption pursuant to paragraph (1) must file the application with the Financial Secretary and the Comptroller of Customs in the form prescribed in VAT Rules.

(7) A returning national must not make, by act or omission, any false or misleading or fraudulent statements in support of an application for exemption.

PART IV- TRANSACTIONS INVOLVING A SUPPLY OR IMPORT OF GOODS OR SERVICES

Application of a portion of goods or services to a different use.

21. For purposes of Part V of the Act —

(a) subject to paragraph (c), the application by a taxable person of a portion, amounting to more than ten percent, of goods or services acquired to a different use is chargeable as a taxable supply;

(b) the Comptroller must determine, where a taxable person applies a portion of goods or services to a different use, the portion of goods or services so converted to a different use by —

(i) aggregating within a twelve month period the applications to a different use of such goods or services; and

(ii) calculating in accordance with regulation 23 the value of the portion of the goods or services applied to a different use;

(c) the application to a different use by a taxable person of a portion of goods or services acquired is not chargeable as a taxable supply where —

(i) the taxable person was not entitled to claim an input tax deduction for VAT imposed and paid on the acquisition of such goods or services;

(ii) the goods were on hand on the date of cancellation of the registration of such person but no claim was made for input tax deduction in respect of VAT imposed and paid at the time the goods were acquired; or

(iii) the goods or services are exempt goods or exempt services.

Supply of goods or services to employees.

22. (1) Pursuant to regulation 21, the provision by an employer of goods or services acquired for use in a taxable activity carried on by such employer to an

employee for personal use is a taxable supply except where —

(a) the employer was not entitled to claim an input tax deduction for VAT imposed and paid on the acquisition of such goods or services;

(b) the goods were provided to the employee on the date of cancellation of the registration of the employer and the employer had made no claim for input tax deduction in respect of VAT imposed and paid at the time the goods were acquired; or

(c) the employer supplies an exempt good or exempt service to the employee.

(2) A supply of goods or services by an employer to an employee is, except where paragraphs (a), (b) or (c) applies, a taxable supply for consideration even where the employee does not pay, or pays less than market value, for the goods or services.

(3) Notwithstanding paragraph (2) and subject to VAT rules, the Comptroller may treat the supply of meals by a hotel to its employees as exempt from a charge of VAT.

Determination of value of goods or services applied to a different use.

23. (1) The value of a supply comprising the portion of goods or services which are applied by a taxable person to a different use is the lesser of —

(a) the percentage that the cost of the goods or services which are applied to the different use bears to the original cost of the entire goods or services acquired by the taxable person; or

(b) the current fair market value of such goods or services as evidenced by documentary proof.

(2) An application to a different use is treated as nil where ten percent or less of the value of goods or services acquired by a taxable person is applied to the different use.

(3) Paragraph (2) does not apply to a supply of immovable property.

Determination of value of supply by advance payment of specified goods or services.

24. (1) Pursuant to section 37(12) of the Act and subject to paragraph (2) of this regulation, the value of a supply of a phone card, prepayment on a cellular phone, or other specified good or service under a similar scheme of

advance payment, is the stated value on such prepaid card as may be used to obtain the good or service.

(2) Paragraph (1) applies only where —

(a) a registrant who is a service provider or reseller supplies the specified good or service to an unregistered taxable person who is also a reseller;

(b) the sale is at a discount from the stated value on the card which stated value excludes VAT; and

(c) VAT on the supply is accounted for separately from the stated value.

(3) The value of a supply pursuant to section 35(2) of the Act is, where the supplier of a prepaid card does not account for VAT separately from the stated value on such card, the price of such prepaid card reduced by an amount equal to the VAT fraction and multiplied by that price so that, by way of example, where —

(a) the tax rate on the supply is seven and one half percent;

(b) the prepaid card's stated value is twenty dollars; and

(c) the card is sold by a registrant service provider or reseller to a reseller who is an unregistered taxable person for fifteen dollars,

the value of the supply by the registrant service provider or reseller is $18.60, being $20 reduced by the VAT fraction or (40/43) x $20.

Value of a supply of capital goods on cancellation of registration. Third Schedule.

25. The value of capital goods deemed to be a taxable supply on a cancellation of registration pursuant to section 37(13)(b) of the Act is determined in accordance with the Third Schedule.

Classification of transaction as a mixed supply or a mixed import.

26. (1) A mixed supply or a mixed import occurs where a single transaction consists of —

(a) the supply of two or more things, whether goods or services or both, where the VAT treatment of each thing would be different if they were not combined in the single transaction; or

(b) the importation of two or more things, whether goods or services or both, where

the VAT treatment of each thing would be different if they were not combined in the single transaction.

(2) The Comptroller may classify a transaction involving the supply or importation of two or more things, whether goods or services or both, where each thing on its own would be subject to a different VAT treatment, as —

(a) a mixed supply or a mixed import constituting a single transaction; or

(b) two or more separate supplies or imports, where each thing supplied or imported is subject to its own VAT treatment.

(3) For the purposes of Part V and Part VI of the Act, the Comptroller must, in determining whether a transaction is a mixed supply or mixed import constituting a single transaction, consider whether —

(a) one thing being supplied or imported is merely a subsidiary part that is ancillary or incidental to another thing being supplied or imported, which latter thing is the dominant part of the transaction; and

(b) the subsidiary part is merely a means of better enjoying the dominant part or is a thing necessarily supplied as an integral part of the dominant part.

(4) The Comptroller must, where the Comptroller determines that a transaction satisfies the criteria referred to in paragraphs (a) and (b) of subsection (3) —

(a) classify the transaction as a single transaction, being a mixed supply or a mixed import; and

(b) treat each subsidiary part of the transaction as part of the dominant part and subject it to the same tax treatment as the dominant part.

(5) The Comptroller must, where the Comptroller classifies a transaction as two or more separate supplies or imports, determine the value of each separate supply or import by —

(a) apportioning the consideration for the transaction between each separate supply or import so as to provide a true reflection of the value to the recipient of each such supply or import; and

(b) give such weight as the Comptroller deems appropriate in the circumstances to the manner in which the supplier and the recipient agreed to apportion the consideration.

Brokerage services.

27. Brokerage services rendered by a domestic supplier that are incidental to the import of goods are, in accordance with section 40(1) of the Act, part of the import of goods.

Place of supply of services rendered by overseas portion of a business.

28. (1) Notwithstanding section 33(3) of the Act, services rendered by an overseas portion of a business to the portion of the business carried on in The Bahamas —

(a) is treated as services imported into The Bahamas by the portion of the business carried on in The Bahamas; and

(b) is chargeable to VAT in accordance with section 45 of the Act.

(2) Subject to these Regulations, paragraph (1) applies to all services rendered and, for the avoidance of doubt, includes the storage by an overseas portion of a business of computer data of the business carried on in The Bahamas.

Discount coupons.

29. (1) In this regulation a discount coupon is a coupon that entitles the holder to a discount on the price of specific goods or services, whether such entitlement is expressed as a —

(a) face value amount on or associated with the coupon;

(b) percentage of the price; or

(c) "two-for-one" or similar offer, or in any other way.

(2) The issuance of a discount coupon, whether in an advertisement or otherwise, is not a supply.

(3) The consideration for a supply of goods or services, where a discount coupon is used in relation to the supply, does not include the —

(a) monetary value, if any, stated on the coupon; or

(b) amount of the discount granted because of the acceptance of the coupon.

PART V - INPUT TAX DEDUCTIONS AND VAT DOCUMENTS

Sale and input tax deduction by a registrant dealer of second-hand vehicles.

30. (1) The tax period in which an input tax deduction may be claimed, pursuant to section 50(2)(e) of the Act, by a registrant dealer in respect of the sale of a second-hand vehicle by such dealer is the tax period in which the dealer sells the second-hand vehicle.

(2) A registrant dealer who claims, or intends to claim, an input tax deduction in respect of the sale of a second-hand vehicle must —

(a) give to the person from whom the vehicle is acquired a purchase receipt acknowledging the purchase of the vehicle; and

(b) maintain a register or stock book for each vehicle purchased.

(3) A purchase receipt issued by a registrant dealer under paragraph (2) must contain —

(a) an identifying number for the purchase;

(b) a description of the vehicle;

(c) the date of the acquisition by the dealer;

(d) the name and address of the person selling the vehicle to the dealer;

(e) the price paid by the dealer for the vehicle; and

(f) the number of the invoice, if any, given by the seller to the dealer.

(4) A registrant dealer must enter into the register or stock book of the dealer, as soon as practicable after a purchase is made, all of the information required to be listed on the purchase receipt and, in addition —

(a) give each vehicle to be sold a separate identification number;

(b) where a vehicle was purchased together with a second vehicle or other items for a single price and such items will be sold separately —

(i) allocate the purchase price across the items in accordance with their market value when purchased; and

(ii) ensure that the full amount paid to the seller has been listed against the items purchased.

(5) A registrant dealer must, where the dealer sells a second-hand vehicle, enter in the register or stock book, and cross-reference to the entry for the purchase of the vehicle sold the —

(a) date of sale;

(b) identifying number or numbers given to the vehicle under this regulation;

(c) number of the VAT invoice given for the sale; and

(d) price of the sale.

(6) Subject to paragraph (7), an input tax deduction is not allowed under this Part to a registrant dealer who contravenes or fails to comply with a provision of this regulation.

(7) For purposes of section 50 of the Act, the Comptroller may, notwithstanding a registrant dealer is in contravention of or non-compliance with a provision of this regulation, allow the dealer to claim input tax deduction where the Comptroller is satisfied that the dealer's records are sufficient to support an entitlement to a claim.

(8) A registrant dealer, where the dealer sells a second-hand vehicle that was acquired as a trade-in on the purchase of a new vehicle, must ensure that there is equality in the values of the —

(a) price the dealer used to calculate the input tax deduction allowed under section 50(2)(e) of the Act and this regulation for the acquisition of the trade-in car; and

(b) amount the dealer treated as non-monetary consideration in working out the price of the new vehicle for the purposes of determining the VAT payable on the supply of that vehicle.

(9) For the purposes of working out the amounts referred to in sub-paragraphs (a) and (b) of paragraph (8), the registrant dealer must use the true market value of the trade-in vehicle or the trade-in value stated in the transaction documents.

Apportionment where both taxable and exempt supplies are made.

31. (1) Subject to paragraphs (3) and (4), input tax deduction is, where a taxable person acquires or makes a supply or importation that is used for the making of both taxable and exempt supplies, calculated according to the formula 'A x B/C' where —

(a) A is the total amount of input tax payable in respect of supplies and imports received during the period less the sum of the input tax attributable to supplies or imports —

(i) acquired or made which are directly allocable to the making of taxable or exempt supplies;

(ii) in respect of which deduction is disallowed under the Act or these Regulations;

(b) B is the total amount of taxable supplies made by the taxable person during the period; and

(c) C is the total amount of all supplies made by the taxable person during the period.

(2) A taxable person may, where the fraction 'B/C' referred to in subsection (1) is more than 0.90, deduct the total amount of input tax on the supplies or imports acquired or made during the tax period.

(3) A taxable person may not, where the fraction 'B/C' referred to in subsection (1) is less than 0.10, claim input tax deduction on taxable supplies made during the tax period subject to —

(a) verification by the VAT Comptroller that the fraction 'B/C' was less than 0.10 over a twelve month period; and

(b) an annual adjustment, where applicable.

(4) Paragraphs (1), (2) and (3) do not apply to a financial institution making both taxable and exempt supplies for a tax period.

(5) The Comptroller may determine the amount of input tax allowed for a tax period on such basis other than referred to in paragraphs (1), (2) and (3) as the Comptroller considers reasonable in a particular case.

Financial institutions.

32. (1) A registrant which is a licensed financial service provider, and makes both taxable and exempt supplies, may claim input tax deduction only for input tax on purchases and imports used in making taxable supplies.

(2) A bank or other financial institution can claim an input tax deduction on domestic purchases and imports only to the extent that such purchases or imports are

directly attributable to and used wholly for the making of taxable supplies.

(3) A registrant rendering financial services which derives more than ninety per cent of its total supplies in a tax period from taxable supplies may apply the *de minimis* rule and deduct the entire input tax allowable on taxable purchases and taxable imports for the period.

(4) The Comptroller may apply the *de minimis* rule referred to in paragraph (3) to a business that renders financial services only ancillary to its business of selling taxable goods or services.

(5) A supplier of financial services must, when calculating the value of taxable and total supplies —

(a) use gross figures for supplies other than financial intermediation services; and

(b) use net interest amounts (interest income less interest expense) for financial intermediation services.

(6) The Comptroller may limit input tax deductions allowed under this regulation where it is, in the opinion of the Comptroller, necessary to properly reflect transactions involving related parties.

VAT invoice, VAT sales receipt, tax credit note and tax debit note.

33. (1) A person must, where a VAT invoice, VAT sales receipt, tax credit note or tax debit note is required for the purposes of the Act or these Regulations, ensure that such document is in the form and contains the information specified in VAT Rules.

(2) A VAT invoice is invalid where any of the specified information required to be stated on the VAT invoice is missing and the registrant recipient of the supply is not entitled to claim an input tax deduction in relation to the supply unless and until the supplier issues a VAT invoice containing the specified information.

(3) Notwithstanding paragraph (2), where the registrant recipient of a supply is entitled to claim an input tax deduction on VAT paid on the acquisition of the thing supplied but the amount of VAT stated on the VAT invoice issued by the supplier is less than the VAT actually chargeable on the supply —

(a) the VAT invoice is not invalid merely because it understates the amount of VAT chargeable on the supply; and

(b) for the purposes of calculating the amount of any input tax deduction that the recipient is entitled to claim under the Act, the input tax in relation to the acquisition is treated as being equal to the amount stated on the VAT invoice unless and until the supplier issues a VAT invoice containing the amount of VAT actually chargeable on the supply.

(4) A registrant recipient of a supply may, in the tax period in which the acquisition was made, claim the correct or an additional amount of input tax deduction in any case where —

(a) the supplier purported to issue a VAT invoice but the document issued is not a valid VAT invoice or the amount of VAT stated on the invoice is less than the VAT actually chargeable on the supply;

(b) the recipient requested the supplier, within sixty days after the date of the supply, to issue a correct VAT invoice; and

(c) the supplier provided a correct VAT invoice, whether before or after the expiration of the sixty day period.

(5) The input tax in relation to the acquisition of a supply, where the VAT invoice issued by the supplier overstates the VAT chargeable on the supply, is —

(a) not the amount stated on the invoice; and

(b) determined by reference to section 6 of the Act.

(6) For purposes of section 50 of the Act, this regulation applies where information required to be stated on a tax credit note or tax debit note is missing, or the amount of a VAT adjustment is understated, as if the references to —

(a) a VAT invoice were references to a tax debit note or tax credit note; and

(b) a claim for input tax deduction by the recipient of a supply were references to a claim for input tax deduction by the supplier or recipient, as the case may be, because of a VAT adjustment event.

(7) Section 54(7) of the Act does not prevent a registrant from issuing a corrected VAT invoice, clearly

marked "Corrected Invoice" as such in bold typeface, where —

(a) a document purporting to be a VAT invoice was previously issued by the registrant; and

(b) the document referred to in sub-paragraph (a) is not a valid VAT invoice or, had paragraph (3) not applied, would not have been a valid VAT invoice.

PART VI - EXCESS CREDITS AND REFUNDS

Proof of excess credits and issuance of refunds.

34. (1) A person claiming under section 56 of the Act a refund of tax paid in excess of the amount properly charged must maintain and make available for inspection by the Comptroller on request documentary proof in support of the claim in the form of —

(a) VAT invoices, VAT sales receipts, tax credit notes, and tax debit notes issued in the transactions giving rise to the claim; and

(b) records that explain the essential features of the transactions and how they relate to the excess amount claimed.

(2) Any refund payable under Part VII of the Act is, where a registrant has made no taxable supplies in a tax period, nor in any previous tax period, subject to such conditions as the Comptroller thinks fit to impose, including a delay in the issuance of the refund until the registrant starts making taxable supplies in the ordinary course of the taxable activity carried on by such registrant.

Procedure for claim of refund by exempt persons and charitable organisations.

35. (1) This regulation applies to a claim for refund of tax by exempt persons and charitable organisations pursuant to sections 2, 8 and 58 of the Act.

(2) In this regulation —

"eligible staff members of a mission" means a diplomatic agent or consular officer within the meaning of the Vienna Convention;

"international organisation" means an organisation within the meaning of section 3(1) of the International Organisations (Immunities and Privileges) Act and includes the person serving as head in The Bahamas and other eligible representatives of such organisation; Ch. 14.

"mission" means a diplomatic mission or consulate within the meaning of the Vienna Convention;

"Vienna Convention" means —

(a) the Vienna Convention on Consular Relations scheduled to the Consular Relations and Commonwealth Officers Act; Ch. 18.

(b) the Vienna Convention on Diplomatic Privileges and Immunities scheduled to the Diplomatic Privileges and Immunities Act; Ch. 19.

(3) A diplomatic agent or consular officer or the head in The Bahamas of an international organisation may apply, on behalf of the mission or organisation, to the Comptroller in the form prescribed for a refund of VAT paid on the acquisition of qualifying goods or services.

(4) Goods or services which qualify for a refund pursuant to paragraph (3) include —

(a) goods and services imported or acquired for official receptions, dinners, or luncheons, hosted at hotels and restaurants;

(b) household furniture and equipment imported or acquired for official use only by the —

(i) mission and eligible staff members of the mission;

(ii) head and eligible representatives of an international organisation; and

(c) such other goods or services as the Minister may by order approve.

(5) A mission or international organisation may apply for a refund of tax under paragraph (3) only where the mission or organisation —

(a) is registered under Part IV of the Act; and

(b) provides the Comptroller with —

(i) a specimen of the signature of the head of the mission or head of the international organisation;

(ii) a specimen of the signature of a diplomatic agent or consular officer, or an official of the organisation, who is —

(A) delegated authority to sign VAT returns and the application for

refund and schedule of purchases in the absence of the head; and

(B) approved by the Comptroller.

(6) The Comptroller may register a mission or an international organisation under sections 8 and 58 of the Act, whether or not the mission or organisation is a taxable person or carries on a taxable activity.

(7) An application for refund in the prescribed form must be filed electronically by the mission or organisation with the Comptroller on a monthly basis as if it were a VAT return unless the Comptroller has granted the head of the mission or organisation written permission to file the application on a different basis.

(8) An application for refund filed on behalf of a registered mission or international organisation must be accompanied by a summary of VAT paid or refund requested, in a format specified by the Comptroller, listing separately refunds claimed for the mission or organisation and eligible staff members.

(9) A registered mission or international organisation must maintain in relation to an application for refund, and make available for review by the Comptroller on request, an original valid VAT invoice and other supporting documentation and records evidencing to the satisfaction of the Comptroller —

(a) that a supply to the mission or organisation was a taxable supply;

(b) the amount of tax included in the price of the supply;

(c) that the person claiming to be entitled to the refund made the acquisition and paid the consideration for the supply;

(d) customs entry documentation or other evidence in relation to a taxable importation showing the amount of tax paid to the Comptroller of Customs and the identity of the person by whom it was paid; and

(e) a schedule of purchases in the form prescribed.

(10) The Comptroller must, where the Comptroller is satisfied that an application for refund and schedule of purchases are correct, within two calendar months of

receipt of the application and schedule issue a refund to the mission or international organisation.

(11) A mission or organisation receiving a cheque pursuant to paragraph (10) is responsible for distributing the refunds to the claimants.

(12) The Comptroller must, where the Comptroller is not satisfied that an application for refund and schedule of purchases are correct —

(a) notify the head of the mission or international organisation in writing specifying the reasons why the Comptroller is not satisfied; and

(b) within two calendar months of receipt of the application and schedule issue a refund for such part of the claim, if any, that the Comptroller is satisfied is correct.

(13) An approved charitable organisation or body may, pursuant to section 58 of the Act, apply to the Comptroller in the form and manner prescribed in VAT Rules for a refund of VAT paid on the acquisition of qualifying goods or services.

(14) The Comptroller may allow an approved charitable organisation that makes taxable supplies as a VAT registrant to classify and claim refunds of VAT approved by the Comptroller, but as yet unpaid, as input tax deductions on VAT returns.

(15) The Comptroller shall specify the frequency at which an approved charitable organisation may apply for a refund of VAT on qualifying purchases.

Procedure for claim of refunds by Port licensees eligible for tax refund in certain circumstances.

36. (1) A Port licensee who is registered in accordance with section 59 of the Act may apply, at such frequency as may be specified by the Comptroller, for a refund of sums referred to in section 9 of the Act.

(2) The Comptroller may register a Port licensee under section 59 of the Act whether or not the Port licensee is a taxable person or carries on a taxable activity.

(3) An application for refund by a Port licensee must —

(a) be filed within twenty-eight calendar days from the date of issue of the invoice mentioned in subsection (1) of section 54 of

the Act or such later date as the Comptroller may allow in his discretion;

(b) contain the licensee's tax identification number issued to the Port licensee pursuant to section 59 of the Act;

(c) be supported by documentation and records maintained by the Port licensee and made available for inspection on request by the Comptroller as follows —

(i) an original invoice or other evidence demonstrating, to the satisfaction of the Comptroller, the sums referred to in section 9 of the Act; and

(ii) a declaration that the supplies are of the type described in section 3(3)(a) of the Act.

(4) The Comptroller must, where the Comptroller is satisfied that an application for refund pursuant to section 59 of the Act is correct, issue a refund to the relevant Port licensee within two calendar months of receipt of the application.

(5) The Comptroller must, where the Comptroller is not satisfied that an application for refund pursuant to section 59 of the Act is correct —

(a) notify the relevant Port licensee in writing specifying the reasons why the Comptroller is not satisfied; and

(b) within two calendar months of receipt of the application, issue a refund to the relevant Port licensee for such part of the claim, if any, that the Comptroller is satisfied is correct.

PART VII - TAX-INCLUSIVE PRICING

Tax-inclusive pricing.

37. (1) This regulation applies where a registrant offers goods for retail sale.

(2) A registrant offering goods for retail sale must show the price on the goods inclusive of VAT and, where VAT is charged on such goods, show the amount of VAT charged in a VAT sales receipt or VAT invoice issued to the purchaser.

(3) The Comptroller may approve methods of identification by a registrant of taxable goods —

(a) using colour coding price tickets for taxable, zero-rated, exempt and other supplies; or

(b) using special characters or symbols, including an asterisk, to identify taxable supplies,

provided a clear explanation of the method used is displayed prominently at such places as are necessary to enable customers to identify, before they enter into a transaction, whether VAT has been included in the price of the goods.

PART VIII - OFFENCES, PENALTIES, ADMINISTRATIVE FINES AND WARNING LETTERS

General offences.

38. (1) A person commits an offence who —

(a) not being a taxable person, in contravention of subsection (4) of section 4 of the Act, collects, advertises, or quotes value added tax in respect of a taxable supply by such person to another person;

(b) wilfully evades, or attempts to evade, the assessment, payment, or collection of VAT pursuant to the Act and these Regulations;

(c) wilfully impedes, or attempts to impede, the Comptroller or a VAT officer in the administration of this Act by —

(i) failing to comply with a lawful request by the Comptroller or officer made under Part IX;

(ii) interfering with, or obstructing, the exercise by the Comptroller or officer of a lawful power under Part IX;

(iii) in any manner whatsoever contravening or failing to comply with a provision of the Act and these Regulations; or

(d) contravenes or fails to comply with a requirement of confidentiality under section 95 of the Act,

and is liable on conviction to a fine not exceeding fifty thousand dollars ($50,000.00) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) A person who contravenes section 92 of the Act commits an offence and is liable on conviction, where the tax properly payable by such person exceeds the tax payable on an assessment based on the false or misleading statement, to a fine equal to the sum of one thousand dollars ($1,000.00) and, in addition —

(a) the amount by which the tax payable by such person would be reduced when assessed on the basis of the information provided in the statement; and

(b) the amount by which any refund applied for by such person would be increased when determined on the basis of the information provided in the statement.

(3) A person who is declared an agent by the Comptroller and who contravenes section 72(2) of the Act by failing within the prescribed time to pay money or deliver property specified in a notice issued by the Comptroller commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars ($10,000.00) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(4) A person who, in contravention of section 95 of the Act, fails to maintain confidentiality commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars ($10,000.00) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(5) A person who contravenes or fails to comply with any provision of the Act or these Regulations for which no penalty is prescribed under this Part commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars ($10,000.00) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Offences by VAT officer.

39. A VAT officer who contravenes or fails to comply with a provision of section 14(5) of the Act commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars ($100,000.00) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Offences by VAT registrant.

40. (1) A registrant who, in contravention of section 10 of the Act and regulation 37 —

(a) fails to state the price of a good inclusive of VAT;

(b) fails to issue, or to state separately the amount of VAT charged on a good in, a VAT invoice or a VAT sales receipt; or

(c) fails to display the prices of goods or services supplied by such registrant in accordance with the regulations or VAT Rules,

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars ($100,000.00) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(2) A registrant who, in contravention of section 25 of the Act —

(a) fails to display a valid certificate of registration at a location where he carries on a taxable activity; or

(b) fails to display a valid certificate of registration in a conspicuous place at the location where he carries on a taxable activity,

commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars ($50,000.00) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(3) A registrant who fails to comply with any provision of subsections (1) or (3) of section 26 of the Act commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars ($50,000.00) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(4) A registrant who in contravention of subsection (1) of section 47 of the Act fails to file a VAT return in the prescribed form or within the prescribed time, or to pay VAT due and payable, for two or more consecutive or non-consecutive tax periods, commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars ($10,000.00) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(5) A promoter of public entertainment who contravenes or fails to comply with section 65(3) of the Act commits an offence and is liable on conviction to —

(a) a fine not exceeding fifty thousand dollars ($50,000.00) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; and

(b) pay an additional penalty equal to fifteen percent of the value of the tickets printed for the entertainment.

(6) A registrant who fails to give a security pursuant to a notice in writing issued by the Comptroller under section 65(1) of the Act commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars ($50,000.00) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(7) A registrant who contravenes or fails to comply with section 54 of the Act by —

(a) failing to issue an original VAT invoice within sixty calendar days contrary to subsection (1);

(b) issuing more than one VAT invoice in respect of a taxable supply contrary to paragraph (a) of subsection (3);

(c) failing to comply with a request within the fourteen day period contrary to paragraph (b) of subsection (3);

(d) failing to issue a VAT sales receipt in accordance with subsection (5); or

(e) issuing a VAT invoice or a VAT sales receipt contrary to subsection (7),

commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars ($10,000.00) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(8) A registrant who contravenes or fails to comply with section 56 of the Act by improperly filing a claim for refund under subsection (2)(b), subsection (5), or subsection (9), of that section commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars ($10,000.00) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Offences by taxable person.

41. (1) A taxable person who, in contravention of section 19 of the Act, fails to apply for registration —

(a) in accordance with subsection (1);

(b) within the time prescribed by paragraphs (a) or (b) or subsection (3); or

(c) being an auctioneer, in accordance with paragraph (b) of subsection (9),

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars ($100,000) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(2) A taxable person who fails to comply with any provision of subsections (2) or (3) of section 26 of the Act commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars (100,000) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(3) A hotel or other person responsible for the administration of condos that are part of a pool or other collective rental arrangement who, in contravention of section 5(2) and section 19(2) of the Act, fails to register commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars ($100,000) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(4) An unregistered taxable person who, in contravention of section 24(2)(a) and (c) of the Act —

(a) collects tax or issues to any person a VAT invoice, VAT sales receipt, tax credit note or tax debit note; or

(b) fails to pay and account to the Value Added Tax Department for value added tax chargeable on all taxable supplies and taxable importations made by him while unregistered,

commits an offence and is liable on conviction to a fine not exceeding two hundred fifty thousand dollars ($250,000) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Offences by importer.

42. (1) An importer of a taxable importation of goods who, in contravention of section 44 of the Act —

(a) fails to submit an import declaration to the Comptroller of Customs;

(b) fails to pay the VAT due on the import; or

(c) submits an import declaration that fails to comply with subsection (3),

commits an offence and is liable on conviction to a fine not exceeding two hundred fifty thousand dollars ($250,000) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(2) An importer of a taxable importation of services who, in contravention of section 45 of the Act —

(a) fails to submit an import declaration to the Comptroller of VAT;

(b) fails to pay the VAT due on the import within the time prescribed; or

(c) submits an import declaration that fails to comply with subsection (3),

commits an offence and is liable on conviction to a fine not exceeding two hundred fifty thousand dollars ($250,000) or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Offences by companies, aiders and abettors.

43. (1) Every person who, at the time an offence under this Part was committed by a company —

(a) was a director or other similar officer of the company; or

(b) acted or purported to act in the capacity of a director or other similar officer,

also commits the offence and is liable on conviction to such penalty as may be applicable for the offence.

(2) It is a defence for a person referred to in subsection (1) to prove that —

(a) the offence was committed without such person's knowledge or consent; and

(b) such person exercised such care, diligence, and skill to prevent the commission of the offence by the company as ought to have been exercised having regard to the nature of such person's functions in all the relevant circumstances.

(3) A person who aids or abets the commission by another of an offence under this Part also commits such offence and is liable on conviction to the same penalties as the person whom he aided or abetted in committing such offence.

Administrative fines.

44. (1) The Value Added Tax Department may not impose under section 16 of the Act an administrative fine on a person where in respect of the same act or omission constituting the contravention or non-compliance to which such fine relates such person has already been convicted of an offence under this Part.

(2) The Value Added Tax Department must —

(a) withdraw a prosecution for an offence which, after payment in full of an administrative fine has been made within the prescribed time, is instituted in respect of the same act or omission constituting the contravention or non-compliance to which the fine related;

(b) refund the amount of an administrative fine that has been paid where, after the lapse of the time prescribed for payment, payment of the fine has been made in part only and a criminal prosecution is instituted in respect of the same act or omission constituting the contravention or non-compliance to which the fine relates.

(3) An administrative fine imposed under section 16 of the Act does not become payable and the time period for payment specified in the order is suspended until the prosecution is withdrawn in a case where, after imposition of the fine and before payment in full has been made —

(a) a prosecution for an offence is instituted in respect of the same act or omission constituting the contravention or non-compliance to which the fine relates; and

(b) the prosecution is instituted when the time period for payment specified in the order has not yet elapsed.

(4) Pursuant to section 16 of the Act, a contravention or non-compliance described in the second and third columns of the First Schedule is classified as very serious, serious, or minor as specified in the fourth column of the First Schedule.

First Schedule.

First Schedule.

(5) The Value Added Tax Department may, where the Department imposes a fine on a person, publish in such manner as it deems appropriate a statement of the

contravention or non-compliance in respect of which the fine is imposed.

Procedure for imposition of administrative fines.

45. (1) The Value Added Tax Department must, in determining the amount of a variable fine to be imposed on a person who has committed a contravention or non-compliance, take into account the —

(a) degree of intention or negligence on the part of such person;

(b) harm done by the contravention or non-compliance;

(c) history of such person having regard to the imposition of any prior fine, or conviction for an offence under this Part, within the five-year period immediately before the contravention or non-compliance;

(d) whether such person brought the contravention or non-compliance to the attention of the Department;

(e) classification of the contravention or non-compliance;

(f) whether or not the contravention or non-compliance was inadvertent;

(g) efforts, if any, made to rectify the contravention or non-compliance and to prevent a recurrence;

(h) potential financial consequences to such person, and to third parties including customers and creditors of such person, of imposing a fine; and

(i) the amount of the fines imposed by the Department in other same or similar cases.

(2) The Value Added Tax Department may, where it proposes to impose an administrative fine on a person believed to have committed a very serious or serious contravention or non-compliance, give to such person prior to imposing the fine a written notice containing the —

(a) name of such person;

(b) classification of the contravention or non-compliance;

(c) amount of the fine applicable where fixed or that the Department proposes to impose where variable;

(d) right of such person within fourteen days after the notice is served, or within such longer period as the Department may specify in the notice, to pay the fine in full or to make representations to the Department with respect to the contravention or non-compliance;

(e) manner in which the person may make representations pursuant to paragraph (d); and

(f) warning that such person is, where payment in full or representations are not made in accordance with the notice, be deemed to have committed the contravention or non-compliance and the Department may issue an order imposing the fine in respect of it.

(3) A person who pays in full a fine in accordance with a written notice given pursuant to subsection (2) is deemed to have committed the contravention or non-compliance and all proceedings in respect of such contravention or non-compliance terminates upon such payment.

(4) The Value Added Tax Department must, where a person makes representations in accordance with a written notice given pursuant to subsection (2), decide on a balance of probabilities whether such person committed the contravention or non-compliance and where the Department decides the contravention or non-compliance —

(a) has been committed, by order impose the applicable fixed fine or the proposed or a lesser fine where variable; or

(b) has not been committed, impose no fine.

(5) A person who does not pay a fine or make representations in accordance with a written notice given pursuant to subsection (2) is deemed to have committed the contravention or non-compliance and the Department may by order impose the applicable fixed fine or the fine proposed in the notice.

Assessment and collection of fines.

46. Subject to the Act, an administrative fine —

(a) may be assessed and collected as if such fine were VAT due under the Act and these Regulations and, where such fine relates to an amount of VAT payable, may be

assessed together with the VAT to which it relates; and

(b) which is calculable by reference to the VAT payable for a tax period must be assessed within the same time limit which applies to the assessment of the VAT to which the fine relates.

Limitation periods for prosecution of offences.

47. (1) The Value Added Tax Department may not commence criminal proceedings for an offence under this Part —

(a) where the contravention or non-compliance constituting such offence is classified as minor, later than six months after the subject-matter of the proceedings became known to the Department; or

(b) where the contravention or non-compliance constituting such offence is classified as serious or very serious, later than six years after the subject-matter of the proceedings became known to the Department.

(2) A document appearing to have been issued by the Value Added Tax Department certifying the day on which the subject-matter of any proceedings became known to the Department is —

(a) admissible in evidence without proof of the signature or official character of the person appearing to have signed such document; and

(b) in the absence of evidence to the contrary, proof of the matter asserted in such document.

PART IX- MISCELLANEOUS PROVISIONS

Objection to decision of the Comptroller.

48. A person objecting to an appealable decision of the Comptroller pursuant to section 81 of the Act must lodge the objection in the form and manner specified by the Comptroller.

Requirement of business licence for registration.

49. The Comptroller shall, before issuing a VAT registration certificate pursuant to section 23 of the Act, determine to the satisfaction of the Comptroller that the applicant for registration has complied with the requirements of the Business Licence Act. Ch. 329.

Restriction on combined registration by Port and non-Port licensees.

50. Subject to VAT Rules, a person who makes taxable supplies through branches or subsidiaries that are both Port licensees and non-Port licensees must register the combined branches and subsidiaries within the Port Area separately for VAT purposes.

Transitional provisions.

51. (1) A registrant who, during the first two months after the Act comes into force, fails to comply with a provision of regulation 37 —

(a) in relation to the non-compliance, is not liable during such two-month period to a fine pursuant to regulation 44(4), or to prosecution in the court pursuant to regulation 40(1); and

(b) is liable to a fine or prosecution as specified in sub-paragraph (a) where the non-compliance continues beyond the two-month period.

(2) Where certain categories of goods specified by the Comptroller are offered for retail sale during the first two months after this Act comes into force, a registrant shall not be liable to fines or prosecution for failure to affix the VAT inclusive price on an item where the registrant —

(a) displays visible signage that the VAT will be added as an additional amount to the quoted or affixed price of the specified goods;

(b) displays a sticker or sign of the VAT inclusive price immediately adjacent to the goods offered for sale; or

(c) provides leaflets or other printed materials which give a listing of VAT inclusive prices.

(3) The VAT inclusive price, when quoted by a registrant in a manner specified in paragraph (2), shall not exceed the actual price affixed to the item by more than 7.5%.

(4) Subject to VAT rules —

(a) a registrant supplier of domestic financial services may be given additional time to comply with section 54 of the Act in relation to the issuance of VAT receipts and VAT invoices where such registrant supplier makes available to customers, from the date

this Act comes into force, a complete schedule of tax inclusive fees;

(b) where a supply of insurance services will after 30th June 2015 be subject to VAT at the standard rate, the Comptroller may allow certain claims for input tax deductions in respect of exempt supplies made during the first six months after this Act comes into force.

(5) Value added tax is payable on a taxable supply or taxable import to the extent that such supply or import is made on or after the date the Act comes into force and, for this purpose, except as otherwise provided in these Regulations, the rules relating to time of supply under the Act apply.

(6) A deposit made on a returnable container and paid to the person returning the container after the coming into force of the Act is eligible for an input tax deduction where such payment is supported by such documentation as the Comptroller may require.

FIRST SCHEDULE (Regulation 44)

ADMINISTRATIVE FINES

VALUE ADDED TAX ACT
VALUE ADDED TAX REGULATIONS

No	Description of Contravention or Non-Compliance	Provision of Act	Classification
1	Not being a taxable person, or being an unregistered taxable person, collecting, advertising or quoting VAT in respect of a taxable supply made to another person.	Sections 4(4)	Very Serious
	Being an administrator of a hotel pool or other pooled accommodation, failing to register.	Section 5(2)	Very Serious

2	Being a registrant, failing in respect of a taxable supply to state the price inclusive of value added tax.	Section 10	Serious
3	Being a registrant, failing when charging VAT on a taxable supply to state the tax separately on a VAT invoice or a VAT sales receipt.	Section 10	Serious
4	Failure to apply for registration.	Section 19(l)(a) (b) (c) or (d); Section 24(1)	Very Serious
5	Being an unregistered taxable person, issuing to a person a VAT invoice, VAT sales receipt, tax credit note or tax debit note.	Section 24(2)(a)	Very Serious
6	Being a registrant, failing to display a valid certificate of registration in a conspicuous place at a location where he carries on a taxable activity.	Section 25	Serious
7	Being a registrant, (a) failure to notify the Comptroller of a change in circumstances; or (b) failing to notify a change in circumstances in the manner prescribed.	Section 26(1); Section 26(3)	Serious Minor
8	Failure by a taxable person to notify the Comptroller of the sale or transfer of a taxable activity as a going concern	Section 26(2)	Serious
9	Failure to remove the certificate of registration from display upon cancellation.	Section 27(11)	Serious
10	Failure to (a) submit an import declaration to the Comptroller of Customs; or (b) pay the VAT due on the import.	Section 44(2)	Very Serious
11	Failure to submit an import declaration (a) in the prescribed form; (b) including the information necessary to calculate the VAT payable in respect of	Section 44(3)(a) (b) or (c)	Serious

	the import; or (c) in the manner prescribed or as approved by the Comptroller of Customs.		
12	Failure to (a) submit a VAT return to the Comptroller of VAT; and (b) to pay the VAT due on the importation of services within the prescribed time.	Section 45(2)(a) (b); Section 45(3)	Very Serious
13	Failure to (a) file a VAT return in the prescribed time and form or (b) pay VAT due and payable pursuant to a VAT return or notice of assessment.	Section 47(1)(a); Section 47(1)(b)	Very Serious Very Serious
14	Being an auctioneer (a) failing to add the output tax chargeable on a taxable supply to the amount of a successful bid or to the purchase price in the case of a sale out-of-hand; or (b) failing to include the output tax in the total cost or price charged to the bidder or purchaser.	Section 49(1); Section 49(2)	Serious Serious
15	Submitting a claim for input tax deduction to the Comptroller that is not allowable.	Section 50(4)	Serious
16	Failure by a registrant to make a post-supply adjustment as required.	Section 52(4)(5) (6) and (7)	Serious
17	Failure by a registrant to issue a VAT invoice within the time, and in the form, specifying the particulars prescribed.	Section 54(1)	Very Serious
18	Issuing more than one VAT invoice in respect of a taxable supply or failure to issue a VAT invoice requested in writing within the time prescribed.	Section 54(3)	Very Serious
19	Failure by a registrant to issue a VAT sales receipt within the form and specifying the particulars	Section 54(5)	Very Serious

	prescribed.		
20	Not being a registrant, issuing a VAT invoice or a VAT sales receipt; Being a registrant, issuing a VAT invoice or a VAT sales receipt in a manner not prescribed.	Section 54(6); Section 54(7)	Very Serious Serious
21	Being a registrant supplier issuing a VAT invoice (a) as principal when an invoice has already been issued by the agent of such supplier; or (b) to a registrant recipient when the supplier has already issued an invoice to the agent of such recipient.	Section 54(8) Section 54(9)	Serious Serious
22	Being a registrant supplier failure to issue (a) a tax credit note in the form and specifying the particulars prescribed; or (b) a tax debit note in the form and specifying the particulars prescribed.	Section 55(1); Section 55(2)	Serious Serious
23	Not being a registrant supplier, issuing a tax credit note or a tax debit note.	Section 55(3)	Very Serious
24	Being a registrant, issuing more than one tax credit note or tax debit note in respect of a taxable supply.	Section 55(5)	Very Serious
25	Failure by a person assessed to pay the amount of tax assessed by the date specified in the notice of assessment.	Section 60(9)(b)	Very Serious
26	Failure to comply with a request by the Comptroller made by notice in writing.	Section 62(1)(a) (b) (c) or (d)	Very Serious
27	Failure to give the Comptroller or a VAT officer reasonable assistance or to answer questions.	Section 62(2)	Very Serious
28	Being a bank or other financial institution, failure to comply with a request by	Section 62(5)	Very Serious

	the Comptroller made by notice in writing.		
29	Failure to provide reasonable facilities or assistance to a VAT officer in the exercise of his powers.	Section 63(3)	Very Serious
30	Failing to provide security in the form, amount and time specified in the notice of request.	Section 65(2)	Very Serious
31	Being a promoter, allowing a public entertainment to take place without having (a) paid the amount of security requested or (b) received the approval in writing of the Comptroller.	Section 65(3)	Very Serious
32	Preventing, interfering with or impeding the Comptroller in the exercise of his powers.	Section 67(12)	Serious
33	Being a fraudulent recipient of a taxable supply, failing to pay the amount assessed in a notice of assessment.	Section 71(3)	Very Serious
34	Being a deemed agent, failing within the time prescribed to pay money or deliver property specified in the notice to the Comptroller.	Section 72(2)	Serious
35	Being a receiver, failing to notify the Comptroller in writing within fourteen calendar days after appointment or after taking possession of an asset of a person liable to VAT within The Bahamas, whichever event occurs first.	Section 73(2)	Very Serious
36	Being a receiver, failing to set aside out of the proceeds of sale of an asset the amount notified by, or agreed with, the Comptroller.	Section 73(4)	Very Serious
37	Being a declared representative of a taxable person, failing to perform a	Section 74(2)	Serious

	duty of the taxable person under the Act or the regulations.		
38	Being a declared representative of a taxable person, (a) alienating, charging, or disposing of any money received or accrued in respect of which VAT is payable; or (b) disposing of or parting with any fund or money belonging to the taxable person whose representative he is, and from or out of which such tax could legally have been paid, which is in his possession or comes to him after the tax becomes payable.	Section 74(3)(a) (b)	Very Serious
39	Being a director or similar officer, failing to pay within the specified time the amount payable in a notice of assessment.	Section 76(4)	Very Serious
40	Failing to (a) keep reliable accounting records in the English Language in relation to taxable transactions or (b) failing to keep such records for a period of five years.	Section 79(1) and (2)	Very Serious
41	Being a registrant, failing to include in a VAT return, notice or other document prescribed or used for the purposes of this Act the VAT or taxpayer identification number issued to him upon registration.	Section 85(1)	Minor
42	Not being a taxable person, failing to include in an application, notice, declaration or other document prescribed or used for the purposes of this Act the VAT or taxpayer identification number issued to him.	Section 85(2)	Minor

43	Including a false taxpayer identification number on a document prescribed or used for the purposes of the Act.	Section 85(3)	Very Serious
44	Being a registrant, failing to pay the increased VAT chargeable in relation to a taxable supply on a variation in the VAT rate.	Section 90(1)	Serious
45	Being an unregistered taxable person, collecting from the recipient of a supply the increased VAT chargeable in relation to the supply on a variation in the VAT rate.	Section 90(4)	Serious
46	Making by an act or omission a false or misleading statement to the Comptroller or a VAT officer.	Section 92(1)	Serious
47	Impeding tax administration by failing to comply with any other provision of the Act.	Section 94	Minor
No	**Description of Contravention or Non-Compliance**	**Provision of Regulations**	**Classification**
1	Being an administrator of a pool, failing to register under section 19 of the Act.	Reg. 11(1)	Very Serious
2	Being the owner of an accommodation in a pool, failing to pay VAT on the accommodation.	Reg. 11(3)	Very serious
3	Aiding and abetting an offence	Reg 43(3)	Serious

SECOND SCHEDULE (Regulation 14)

FORM OF CERTIFICATE OF REGISTRATION

GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS
MINISTRY OF FINANCE
VALUE ADDED TAX DEPARTMENT

CERTIFICATE OF REGISTRATION

Tax Identification Number (TIN): _____

This certifies that [NAME OF REGISTRANT]

located at [OPERATING ADDRESS OR BRANCH OF REGISTRANT]

in The Commonwealth of The Bahamas is duly registered under the provisions of the Value Added Tax Act 2014, effective 1 January 2015.

_____ Dated this _____ day of [MONTH] , [YEAR]
Signed By The Comptroller

This certificate remains the property of the Value Added Tax Department, Ministry of Finance and must be surrendered upon request. Note that the said certificate must be displayed at all times in a conspicuous place where taxable activity is conducted in accordance with section 25 of the Value Added Tax Act. It is an offence punishable by law to alter or tamper with this certificate in any way. Please notify the Comptroller immediately by completing VAT Form 19 if there is any change in the circumstances of the business or if the legal obligation to be registered ceases.

[QUICK RESPOSNE CODE:]

THIRD SCHEDULE (Regulation 25)

CALCULATION OF VALUE OF A DEEMED SUPPLY OF CAPITAL GOODS ON CANCELLATION OF REGISTRATION

PART I - CLASSIFICATION OF ASSETS

Classification of real property.

1. (1) For the purpose of determining the useful lives under Part II with respect to real property used by a taxable person in his business, real property is classified as follows —

(a) commercial real property means hotels, commercial rental establishments and restaurants; and

(b) industrial real property includes buildings in which goods are manufactured or processed and buildings used for the purpose of trade consisting of the storage of goods or materials which —

(i) are to be used in the manufacture of other goods or materials;

(ii) will be subjected in the course of trade to any process; and

(iii) have been manufactured, produced or subjected in the course of trade to any process but have not been delivered to a purchaser.

(2) Real property utilised for more than one purpose in a business is classified as commercial or industrial depending on the dominant purpose for which the property is used.

Classification of plant and machinery.

2. (1) For the purpose of determining the useful lives under Part II with respect to plant and machinery used by a taxable person in a business, the plant and machinery is classified as follows —

(a) five year plant and machinery includes —

(i) aircraft and aircraft accessory equipment;

(ii) bicycles;

(iii) motor cars, lorries, omnibuses, vans, jeeps, tractors, land rovers, traction and hauling equipment;

(iv) motor cycles;

(v) office appliances - accounting, adding and calculating machines, cash registers, duplicating and copying machines, typewriters, computers and computer accessories;

(vi) trailers.

(b) seven year plant and machinery includes —

(i) aerated beverage plant (electrical);

(ii) bakery machinery and plant;

(iii) block and brick manufacturing machinery and plant;

(iv) cigarette manufacturing machinery;

(v) cinematography equipment - projectors, fans, public address systems and other electrical appliances and furniture used for seating;

(vi) clothing trade - general machinery used in the clothing trade including sewing machines;

(vii) copra crushing and refining plant;

(viii) cranes;

(ix) diesel engines and motors;

(x) electrical lifts;

(xi) electrical undertakings including generating plants;

(xii) engineering workshops - electrical equipment, lathes and milling machines, welding plant, tools and instruments;

(xiii) furniture workshops - electrical and other equipment;

(xiv) furniture;

(xv) ice manufacture and cold storage - electrical plant and insulation, refrigeration machinery, compressors, condensers, tanks, etc.;

(xvi) neon signs;

(xvii) photographic equipment;

(xviii) plant and machinery not specified as either five or nine year machinery or equipment;

(xix) printing type;

(xx) pumps - electric pumps;

(xxi) radio equipment - amplifiers and receivers;

(xxii) refrigeration and deep freeze cabinets;

(xxiii) shipping - canoes, launches, lighters and sail boats;

(xxiv) stores; and

(xxv) timber merchants - saw milling machinery and electrical motors; and

(c) nine year plant and machinery includes —

(i) aerated beverage plant (steam);

(ii) clothing trade - steam boilers, engines and similar machinery and plant;

(iii) electrical undertakings - mains and other equipment, water turbines and transformers;

(iv) engineering workshops - heavy plant;

(v) garages - gasoline and kerosene tanks and pumps;

(vi) gas - gas holders and containers and other plant;

(vii) ice manufacture and cold storage - steam and gas engines;

(viii) oil tanks and pumps;

(ix) printing - plant and machinery;

(x) pumps - other than electric pumps;

(xi) radio equipment - lines and speakers;

(xii) scales;

(xiii) timber merchants - steam engines and boilers; and

(xiv) waterworks - appliances and apparatus used for storage, purification, conveyance, measurement or regulation of water.

PART II - AMOUNT OF THE CAPITAL ALLOWANCES

Calculation of value of capital goods.

(1) The value of capital goods deemed supplied on the cancellation of registration under the Act and these Regulations is calculated by deducting from the cost of constructing, acquiring or improving the capital goods listed in Part I the amount determined in accordance with the provisions of this Part.

(2) The deduction allowable under paragraph (1) —

(a) begins in the year in which the asset was first brought into use in making taxable supplies; and

(b) is the amount equal to the percentage of the assessed cost, as specified in this Part, of the asset.

(3) The deduction allowable for industrial real property is four per cent for the year the asset was first brought into use and in the next twenty-four succeeding years of assessment.

(4) The deduction allowable for five year plant and machinery is twenty per cent for the year the asset was first brought into use and in the next four succeeding years of assessment.

(5) The deduction allowable for commercial real property is determined in accordance with Table 1 —

TABLE 1

COMMERCIAL REAL PROPERTY

Assessment Year Percentage of Cost

Assessment Year	Percentage of Cost
1	4
2-33	3

(6) The deduction allowable for seven year plant and machinery is determined in accordance with Table 2 —

TABLE 2

SEVEN YEAR PLANT AND MACHINERY

Assessment Year Percentage of Cost

Assessment Year	Percentage of cost
1	15
2	15
3	14
4	14
5	14
6	14
7	14

(7) The deduction allowable for nine year plant and machinery is determined in accordance with Table 3 —

TABLE 3

NINE YEAR PLANT AND MACHINERY

Assessment Year Percentage of Cost

Assessment Year	Percenatge of Cost
1	12
2	11
3	11
4	11
5	11
6	11
7	11
8	11
9	11

(8) The deduction under paragraph 1 is, where capital goods have been used for purposes other than in making taxable supplies, computed as if deductions had

been allowed with respect to that asset for all of the years that the asset has been used in the business.

(9) The Commissioner may, where capital goods are deemed supplied at a time other than at the end of a year of use, apportion the deduction allowable in such manner as appears to the Commissioner to be reasonable.

(10) By way of example of a calculation under this Part —

(i) where machinery was acquired for $100,000;

(ii) where the machinery has a useful life of 7 years;

(iii) where the machinery has been used in a taxable activity for 3 years;

the value of the machinery calculated in accordance with Table 2 —

Cost	$100,000
Capital allowance (14% of cost after 3 yrs)	(14.000)
Value of capital goods deemed supplied	$ 86,000

is $86,000 after the capital allowance or deduction of $14,000.00.